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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,832	11/12/2003	Philip H. Spano JR.	DB000972-002	6933

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EXAMINER

BUTLER, MICHAEL E

ART UNIT PAPER NUMBER

3653

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,832

Applicant(s)

SPANIO ET AL.

Examiner

Michael Butler

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Priority

1. Applicant's claim of priority to application 10010387 filed 12/7/01 is acknowledged.

Drawings

2. The drawings are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claim(s) 1-3 and 7-9 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Haitin et al. which discloses all the claimed elements including:

(Re: cl 1,3, 4, 6) A memory device carrying a set of instructions (ward computer with memory 22) which, when executed, perform a method comprising:
receiving user information (c10 L 32-38);
receiving mode information identifying a locate mode (c6 L 62-c7 L 7);
receiving information identifying an item to be located (c3 L 3-13);
a display positioned on a shelf within the cabinet with the number of items held by that shelf which are to be located (c11 L 34-43; c 11 L 1-2 ; c10 L 47-51);

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(Re: cl 8) receiving a log off instruction and locking the unlocked doors (c8:L 33-38)
(Re: cl 3,6) displaying the number of items taken on the display (c11 L 34-43; c10 L 40-46);
(Re: cl 2, 5) receiving patient information (c11 L 22-30)
(Re: cl 7, 11) unlocking doors responsive to user information (c10 L 40-51)
(Re: cl 9) flashing number of different items on a numeric display (c11 L 34-43).

5. Claim(s) 4-6 and 10-11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinberger 5408443 which discloses:

(Re: cl 1,3, 4, 6) which, when executed, processor performing a method comprising:
receiving user information (c 4 L 34-46)
receiving mode information identifying a locate mode (c 10 L 10-40).
receiving information identifying an item to be located (c 10 L 10-40)
(Re: cl 1,10) indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that compartment which are to be located (c 10 L 10-40)
(Re: cl 4,6) displaying substantive information on the item (c 10 L 10-40)
(Re: cl 7, 11) unlocking doors responsive to user information (c9 L 36-59)
(Re: cl 2, 5) receiving patient information (c 6 L 6-28).

6. Claim(s) 1-3 and 7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. '803 (5564803) which discloses:

(Re: cl 1,3, 4, 6) which, when executed, processor performing a method comprising:
receiving user information (c 2 L 45-65)
indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that shelf which are to be located [receiving a log off instruction (c2 L 45-65)
and locking the unlocked doors ()];
(Re: cl 3, 6) displaying the number of items taken on the display (c
(Re: cl 2, 5) receiving patient information (c 4 L 50-57)
(Re: cl 4, 6) displaying substantive information on the item (c
(Re: cl 7, 11) unlocking doors responsive to user information (c 2 L 45-65 ;c4 L 26-49)
(Re: cl 2, 5) receiving patient information (c 2 L 45-65)
(Re: cl 9) flashing number of different items on a numeric display

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(Re: cl 1,10) indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that shelf which are to be located.

7. Claim(s) 1, 3 and 9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphee 5330062 which discloses:

(Re: cl 1,3, 4, 6) which, when executed, processor performing a method comprising:
receiving user information (c 4 L 53-62)
receiving mode information identifying a locate mode (c
receiving information identifying an item to be located (c 4 L 53-62)
indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that shelf which are to be located
(c 2 L 29-52)
(Re: cl 3,6) displaying the number of items taken on the display (c 2 L 29-52)
(Re: cl 9) flashing number of different items on a numeric display (c 2 L 17-52).

8. Claim(s) 1, 3, and 9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishaziwa 4783740 which discloses:

(Re: cl 1, 3, 4, 6) which, when executed, processor performing a method comprising:
receiving user information receiving mode information identifying a locate mode
receiving information identifying an item to be located, indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that shelf which are to be taken (c 4 L 10-38)
(Re: cl 3,6) displaying the number of items taken on the display (c 4 L 10-38)
(Re: cl 9) flashing number of different items on a numeric display.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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10. Claim(s) 1-3 and 7-9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold which discloses:

(Re: cl 1,3, 4, 6) which, when executed, processor performing a method comprising:
receiving user information (c7 L 54-64);
receiving mode information identifying a locate mode (c7 L 54-64);
receiving information identifying an item to be located (c7 L 54-64);
indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that shelf which are to be located (c8 L 43-65; c7 L 54-64);
(Re: cl 8, 10) receiving a log off instruction (c8 L 6-23);
(Re: cl 3,6) displaying the number of items taken on the display (c7 L 54-64)
(Re: cl 9) flashing number of different items on a numeric display (c7 L 54-64)
(Re: cl 2, 5) receiving patient information (c7 L 54-64)
(Re: cl 7, 11) unlocking doors responsive to user information (c7 L 54-64)
and locking the unlocked doors (c7 L 30-56).
(Re: cl 8) locking doors responsive to a logoff (c8 L 6-23).

Arnold discloses the method is performed under control of a processor control processor (c4 l 55-c5 L 11). The examiner takes official notice that methods are regularly stored in computer magnetic and ROM memory. It would have been obvious to place the method steps performed by the processor in computer nonvolatile memory to have the computer access the steps upon power up, and facilitate transfer of the steps to machines at remote locations and come up with the invention as claimed.

(Re: cl 1,3, 4, 6) which, when executed, processor performing a method comprising:
receiving user information (c 4 L 34-46)
receiving mode information identifying a locate mode (c 10 L 10-40)
receiving information identifying an item to be located (c 10 L 10-40)
(Re: cl 1,10) indicating on a numeric display positioned on a shelf within the cabinet with the number of different items held by that shelf which are to be located
(Re: cl 4,6) displaying substantive information on the item
(Re: cl 7, 11) unlocking doors responsive to user information
(Re: cl 8) receiving log off and locking doors responsive to a logoff
(Re: cl 9) flashing number of different items on a numeric display
(Re: cl 4,6) displaying substantive information on the item

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(Re: cl 3,6) displaying the number of different items to be taken on the display (c
(Re: cl 2, 5) receiving patient information (c

11. Claim(s) 1-11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Haitin et al. and Weinberger wherein the former discloses the elements previously discussed and further discloses:

(Re: cl 8) (7) choosing a query mode includes choosing from among a dispense, locate, return, query or restock mode (c9 L 20-35)

The latter discloses any elements not inherently taught by the former including:

(Re: cl 4, 6) entering patient information into the processor (c4 L 34-46)
choosing a query mode and identifying an item for which information is sought and displaying substantive information for the identified item (c 10 L 10-40).
(Re: cl 2, 5) receiving patient information (c 6 L 6-28).
as well as: (Re: cl 7, 11) unlocking doors responsive to user information (c9 L 36-59).

It would have been obvious for Haitin et al. to display substantive information about the medication so the caregiver can review interactions and proper use as taught by Weinberger and come up with the instant invention. It would have been obvious for Haitin et al. to enter patient information to assure the proper patient is receiving the medication as taught by Weinberger and come up with the instant invention.

12. Claim(s) 1-11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold et al. and Weinberger wherein the former discloses the elements previously discussed.

The latter discloses any elements not inherently taught by the former including:

(Re: cl 4, 6) entering patient information into the processor (c4 L 34-46)
choosing a query mode and identifying an item for which information is sought and displaying substantive information for the identified item (c 10 L 10-40).
(Re: cl 2, 5) receiving patient information (c 6 L 6-28).
as well as: (Re: cl 7, 11) unlocking doors responsive to user information (c9 L 36-59).

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It would have been obvious for Arnold et al. to display substantive information about the medication so the caregiver can review interactions and proper use as taught by Weinberger and come up with the instant invention. It would have been obvious for Arnold et al. to enter patient information to assure the proper patient is receiving the medication as taught by Weinberger and come up with the instant invention.

13. Claim(s) 1-11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. (5880443) '443 and Yarin et al. (US 2002/0027507 A1) wherein the former discloses the elements previously discussed and further discloses:

Yarin et al. discloses any elements not explicitly taught by McDonald et '443 including:

(Re: cl 4, 6) choosing a query mode and identifying an item for which information is sought and displaying substantive information for the identified item (paragraph 55)
(Re: cl 2, 5) receiving patient information (paragraph 69)
(Re: cl 10) indicating the number of items on a display on the shelf (paragraph 52 & 59)
(Re: cl 9) flashing number of different items on a display (paragraph 52).

It would have been obvious for McDonald et al. '443 to display substantive information about the medication so the caregiver can review interactions and proper use as taught by Yarin et al. and come up with the instant invention. It would have been obvious for McDonald et al. '443 to receive patient information to assure proper regimen as taught by Yarin et al. and come up with the instant invention. It would have been obvious for McDonald et al. '443 to flash the number of items to show proper regimen dosage as taught by Yarin et al. and come up with the instant invention.

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14. Claim(s) 1-11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold et al. and Yarin et al. (US 2002/0027507 A1) wherein the former discloses the elements previously discussed and further discloses:

Yarin et al. discloses any elements not explicitly taught by Arnold et al including:

(Re: cl 4, 6) choosing a query mode and identifying an item for which information is sought and displaying substantive information for the identified item (paragraph 55)

(Re: cl 2, 5) receiving patient information (paragraph 69)

(Re: cl 10) indicating the number of items on a display on the shelf (paragraph 52 & 59)

(Re: cl 9) flashing number of different items on a display (paragraph 52).

It would have been obvious for Arnold et al. to display substantive information about the medication so the caregiver can review interactions and proper use as taught by Yarin et al. and come up with the instant invention. It would have been obvious for Arnold et al. to receive patient information to assure proper regimen as taught by Yarin et al. and come up with the instant invention. It would have been obvious for Arnold et al. to flash the number of items to show proper regimen dosage as taught by Yarin et al. and come up with the instant invention.

Response to Amendments/Arguments

15. The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections.

Different number is broad enough to read on different number of discrete items.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Michael E. Butler
Examiner


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